

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Federal Crop Insurance Corporation

#### 7 CFR Part 457

RIN 0563-AA79

#### Common Crop Insurance Regulations; Sugarcane Crop Insurance Provisions

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation ("FCIC") hereby proposes specific crop provisions for the insurance of sugarcane to be contained in an endorsement to the Common Crop Insurance Policy which contains standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured and to move the current sugarcane endorsement from 7 CFR 401.133 to the Common Crop Insurance Policy (7 CFR Part 457) for ease of use by the public and conformance among policy terms.

**DATES:** Written comments, data, and opinions on this proposed rule must be submitted no later than March 23, 1995 to be sure of consideration.

**ADDRESSES:** Written comments, data, and opinion on this proposed rule should be sent to Diana Moslak, Regulatory and Procedural Development Staff, Federal Crop Insurance Corporation, USDA, Washington, DC 20250. Hand or messenger delivery should be made to 2101 L Street NW., suite 500, Washington, DC. Written comments will be available for public inspection and copying in the Office of the Manager, 2101 L Street, NW., 5th Floor, Washington, DC, during regular business hours, Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Diana Moslak, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 254-8314.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed under United

States Department of Agriculture ("USDA") procedures established by Executive Order 12866 and Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is February 1, 2000.

This rule has been determined to be "not significant" for the purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget ("OMB").

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the information collection or record keeping requirements included in this proposed rule have been approved by OMB and assigned OMB No. 0563-0016.

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The policies and procedures contained in this rule will not have a substantial direct effect on states or their political subdivisions, or on the distribution of power and responsibilities among various levels of government.

Under the Regulatory Flexibility Act (5 U.S.C. 605), this regulation will not have a significant impact on a substantial number of small entities. This action reduces the paperwork burden on the insured farmer and the reinsured company. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act and no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in subsections (2)(a) and 2(b)(2) of Executive Order 12778. The provisions of this rule will preempt state and local laws to the extent such state and local

laws are inconsistent herewith. The administrative appeal provisions located at 7 CFR part 400, subpart J or promulgated by the National Appeals Division must be exhausted before judicial action may be brought.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

#### Background

FCIC proposes to add to the Common Crop Insurance Regulations (7 CFR Part 457), a new section to be known as 7 CFR 457.116, Sugarcane Crop Insurance Provisions. The provisions will be effective for the 1996 and succeeding crop years.

The proposed Sugarcane Crop Insurance Provisions will replace the provisions found at 7 CFR 401.133. Upon publication of 7 CFR 457.116 as a final rule, the provisions for insuring sugarcane contained herein will supersede the current provisions contained in 7 CFR 401.133. By separate rule, FCIC will revise § 401.133 to limit its effect to the crop years prior to 1996.

This rule makes minor editorial and format changes to improve its compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing other changes in the provisions for insuring sugarcane as follows:

1. Subsection 3.(b)—Clarify the one year lag period for reporting production, e.g., 1994 crop year production must be reported to establish the production guarantee for the 1996 crop year.

2. Paragraph 11.(c)(2)—Specify that final sugar extraction records will be used rather than preliminary mill estimates when completing the final claim. This will eliminate potentially incorrect payments created by using preliminary mill estimates.

#### List of Subjects in 7 CFR Part 457

Crop insurance, sugarcane.

#### Proposed Rule

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Common Crop Insurance Regulations, (7 CFR Part 457), effective for the 1996 and

succeeding crop years, to read as follows:

#### **PART 457—[AMENDED]**

1. The authority citation for 7 CFR Part 457 is revised to read as follows:

**Authority:** 7 U.S.C. 1506(l)

2. 7 CFR part 457 is amended by adding § 457.116 to read as follows:

#### **§ 457.116 Sugarcane Crop Insurance Provisions**

The Sugarcane Crop Insurance Provisions for the 1996 and succeeding crop years are as follows:

#### **DEPARTMENT OF AGRICULTURE**

#### **Federal Crop Insurance Corporation**

##### *Sugarcane Crop Provisions*

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions, the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

#### **1. Definitions**

(a) *Crop year*—The period from the day of planting for plant cane, or the day following harvest for stubble cane, until the end of the insurance period. The crop year is designated by the calendar year in which harvest normally begins in the county.

(b) *CFSA*—Consolidated Farm Service Agency (previously the Agricultural Stabilization and Conservation Service).

(c) *Good farming practices*—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those recognized by the Cooperative Extension Service as compatible with agronomic and weather conditions in the area.

(d) *Harvest*—Cutting and removing the mature sugarcane from the field.

(e) *Interplanted*—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

(f) *Irrigated practice*—A method of producing a crop by which water is artificially applied during the growing season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

(g) *Local market price*—The price per pound for raw sugar offered by buyers in the area in which you normally market the sugarcane.

(h) *Plant cane*—(See definition of sugarcane).

(i) *Production guarantee*—The number of pounds determined by multiplying the approved yield per acre by the coverage level percentage you elect.

(j) *Stubble cane*—(See definition of sugarcane).

(k) *Sugarcane*—means either:

(1) Plant cane, which grows from seed planted for the crop year; or

(2) *Stubble cane, which grows from the stubble of sugarcane that was harvested the previous crop year.*

(l) *Written agreement*—Designated terms of this policy may be altered by written agreement. Each agreement must be applied for by the insured in writing no later than the sales closing date and is valid for one year only. If not specifically renewed the following year, continuous insurance will be in accordance with the printed policy. All variable terms including, but not limited to, crop variety, guarantee, premium rate and price election must be contained in the written agreement. Notwithstanding the sales closing date restrictions contained herein, in specific instances a written agreement may be applied for after the sales closing date, and approved if, after physical inspection of the acreage, it is determined that the crop has the expectancy of making at least the guaranteed yield. All applications for written agreements as submitted by the insured must contain all variable terms of the contract between the company and the insured that will be in effect if the written agreement is disapproved.

#### **2. Unit Division**

Unless limited by the Special Provisions, a unit as defined in subsection 1.(tt) of the Basic Provisions (§ 457.8), may be divided into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists. Basic units may not be divided into optional units on any basis including, but not limited to, production practice, type, variety, and planting period other than as described under this section. If you do not comply fully with these provisions, we will combine all optional units which are not in compliance with these provisions into the basic unit from which they were formed. We may combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined. All optional units must be reflected on the acreage report for each crop year.

(a) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee.

(b) You must plant the crop in a manner that results in a clear and discernible break in the planting pattern at the boundaries of each optional unit.

(c) You must have records of measurement of stored or marketed production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit or the production from each unit must be kept separate until after loss adjustment under the policy is completed.

(d) Each optional unit must meet one or more of the following criteria as applicable:

(1) *Optional Units by Section, Section Equivalent, or Consolidated Farm Service*

*Agency ("CFSA") Farm Serial Number:* Optional units may be established if each optional unit is located in a separate legally identified Section. In the absence of Sections, we may consider parcels of land legally identified by other methods of measure including, but not limited to: Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands as the equivalent of Sections for unit purposes. In areas which have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernible, each optional unit must be located in a separate farm identified by a single CFSA Farm Serial Number.

(2) *Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices:* In addition to or instead of establishing optional units by Section, section equivalent or CFSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same Section, section equivalent or CFSA Farm Serial Number. The irrigated acreage may not extend beyond the point at which your irrigation system can deliver the quantity of water needed to produce the yield on which your guarantee is based and may not continue into non-irrigated acreage in the same rows or planting pattern. You must plant, cultivate, fertilize, or otherwise care for the irrigated acreage in accordance with recognized good irrigated farming practices.

#### **3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities**

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the sugarcane in the county insured under this policy.

(b) Instead of reporting your sugarcane production for the previous crop year as required by subsection 3.(c) of the Basic Provisions (§ 457.8), you are required to report production for the second previous crop year, e.g., 1994 crop year production must be reported by the required date for the 1996 crop year.

#### **4. Contract Changes**

The contract change date is June 30 preceding the cancellation date (see the provisions of section 4 (Contract Changes) of the Basic Provisions (§ 457.8)).

#### **5. Cancellation and Termination Dates**

In accordance with subsection 2.(f) of the Basic Provisions (§ 457.8), the cancellation and termination dates are September 30.

#### **6. Insured Crop**

In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the sugarcane in the county for which a premium rate is provided by the actuarial table:

(a) In which you have a share;

(b) That is grown for processing for sugar or for seed; and

(c) That is not interplanted with another crop, unless a written agreement allows otherwise.

## 7. Insurable Acreage

Paragraph 9.(a)(3) of the Basic Provisions (§ 457.8) is not applicable to the Sugarcane Crop Provisions.

## 8. Insurance Period

(a) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), insurance attaches:

(1) At the time of planting for plant cane unless we agree in writing to a later date;

(2) On the first day following harvest of the previous crop for stubble cane except as set out in paragraph 8.(a)(3);

(3) On the later of April 15 or 30 days following harvest of the previous crop for stubble cane:

- (i) Damaged during the previous crop year in all states; and
  - (ii) In Louisiana, after the second crop year.
- (b) In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8) the calendar date for the end of the insurance period is:
- (1) January 31 in Louisiana; and
  - (2) April 30 in all other states.

## 9. Causes of Loss

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss which occur within the insurance period:

- (a) Adverse weather conditions;
- (b) Fire;
- (c) Insects, but not damage due to insufficient or improper application of pest control measures;
- (d) Plant disease, but not damage due to insufficient or improper application of disease control measures;
- (e) Wildlife;
- (f) Earthquake;
- (g) Volcanic eruption; or
- (h) If applicable, failure of the irrigation water supply due to an unavoidable cause of loss occurring within the insurance period.

## 10. Duties in the Event of Damage or Loss or Cutting the Sugarcane for Seed

(a) In addition to your duties under section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), in the event of damage or loss:

- (1) All sugarcane stubble must remain intact for our inspection; and
- (2) You must give us notice at least 15 days before you begin cutting any sugarcane for seed. Your notice must include the unit number and the number of acres you intend to harvest as seed. After we receive such notice we will appraise the sugarcane for its sugar potential. If you do not give us notice, the production to count will be the per acre production guarantee for such acreage.

(b) In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), if you initially discover damage to any insured crop within 15 days of, or during harvest, you must leave representative samples of the unharvested crop for our inspection. The representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The stubble must not be destroyed and the

required samples must not be harvested until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

## 11. Settlement of Claim

(a) We will determine your loss on a unit basis. In the event you are unable to provide records of production:

- (1) For any optional unit, we will combine all optional units for which acceptable records of production were not provided; or
- (2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage covered by this policy, we will settle your claim on any unit by:

- (1) Multiplying the insured acreage by the production guarantee;
  - (2) Subtracting from this the total production to count;
  - (3) Multiplying the remainder by your price election; and
  - (4) Multiplying this result by your share.
- (c) The total production (pounds of sugar) to count from all insurable acreage on the unit will include:

- (1) All appraised production as follows:
  - (i) Not less than the production guarantee for acreage:
    - (A) That is abandoned;
    - (B) Put to another use without our consent;
    - (C) Damaged solely by uninsured causes;
    - (D) For which you fail to provide records of production that are acceptable to us; or
    - (E) On which the sugarcane stubble is destroyed within 15 days after harvest without our consent;
  - (ii) Production lost due to uninsured causes;
  - (iii) Unharvested production;
  - (iv) The difference between the production guarantee and the appraised production for acreage which has an inadequate stand. An appraisal for an inadequate stand will be made if the product of the number of stalks per acre multiplied by 2 and further multiplied by the percentage of sugar contained in the Special Provisions for this purpose does not equal the per-acre production guarantee; and
- (v) Potential production on insured acreage you want to put to another use or you wish to abandon and no longer care for, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end if you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us. (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or you fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to

put the acreage to another use will be used to determine the amount of production to count.); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from insurable acreage. Final records of sugar production will be used to determine the amount of production to count. Preliminary mill estimates will not be used.

(d) Harvested sugarcane may be adjusted for quality if it is damaged by freeze within the insurance period and cannot be processed for sugar by the boiling house operation. The amount of production to count for such sugarcane will be determined by dividing the dollar value of the damaged production by the local market price per pound for raw sugar. The prices used for this adjustment will be determined on the earlier of the date such quality-adjusted production is sold or the date of final inspection for the unit.

Done in Washington, D.C., on February 10, 1995.

**Kenneth D. Ackerman,**  
Manager, Federal Crop Insurance Corporation.

[FR Doc. 95-4092 Filed 2-17-95; 8:45 am]

BILLING CODE 3410-08-P

## Animal and Plant Health Inspection Service

### 9 CFR Parts 50, 77, and 92

[Docket No. 93-014-3]

### Cattle From Mexico

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule; withdrawal.

**SUMMARY:** We are withdrawing a proposed rule that would have required certain steers and spayed heifers imported into the United States from Mexico to be sent to a quarantined pasture or feedlot for finish feeding, or to a holding facility for quarantine and a 60-day post-entry tuberculin test. The proposed rule would also have denied claims for indemnity for Mexican-origin steers or spayed heifers that were positive to the 60-day post-entry tuberculin test, and would have denied claims for indemnity for cattle that were exposed to such animals. We are taking this action after considering the comments we received following the publication of the proposed rule.

**DATES:** The proposed rule is withdrawn February 21, 1995.

**FOR FURTHER INFORMATION CONTACT:** Dr. Joseph S. VanTiem, Senior Staff Veterinarian, Animal and Plant Health Inspection Service, Veterinary Services,